[President.]

people talk facilely of changing such a system and of embarking on a policy of so-called independence, let them remember that even an abstract discussion of independence involves and connotes and must necessarily result in loosening and finally snapping the ties that bind Indian States by treaty and other obligations to Great Britain. That snapping of the ties cannot take place at the instance of one party or another. That fundamental modification must be a consensual act as between Indian States and the British Government. I may even go to the extent of saying that even if the British Government at this juncture were willing to make a declaration as to independence, Indian States will have a say in the matter because there are two parties to this contract and unless and until we are able to stand on our own legs and effectively to defend ourselves under modern conditions and fulfil our own destinies and follow our own ideals and plans, England, has a duty to Indian States, which I feel sure she will not fail to discharge. And until we are able to enter into new arrangements with her, this one-sided talk cannot but be ineffective and purposeless if not dangerous. If without such consensual settlement India is granted or promised complete independence, each Indian State will have and probably insist on its right to self-determination and evolution on its own lines. The unity of India will be endangered and harmonious progress jeopardized. This is what I have endeavoured to point out during recent controversies and discussions.

With these words I commend the budget to your notice.

The joint sitting terminated at 1-5 P.M.

The Assembly met at 2 P. M. with the Dewan President in the Chair.

## LEGISLATIVE BUSINESS.

## THE TRAVANCORE DEBT RELIEF BILL.

**MR. R. SAMBASIVA AIYAR**: Sir, I beg to move the following amendment:

"In Clause 4, add the following as a new sub-clause: "sums borrowed on the pledge of gold or gold ornaments."

The object of my amendment is as follows: Many have borrowed on the pledge of gold or gold ornaments. This is mostly due to the economic depression and the passing of the Travancore Agriculturists' Relief Act and more particularly by the agitation carried on in the country by a large number of disgruntled planters of Kanjirapally by which credit became very much restricted; and it was not possible for poor persons to get credit from their neighbours and gold became the only resource for raising money. Therefore there are a large number of transactions on the pledge of gold or gold ornaments. This was not such a prominent feature of our credit transactions some time back, *i. e.*, before the agitation was started. But after the agitation this was the only source for raising money. Now, due to world conditions, as everybody knows, gold has gone up in value. The sovereign which used to sell at Rs. 13-6-0 some time back is now selling at very near Rs. 29. It went up to even Rs. 32 and odd, a fortnight back. So one thing we cannot say, namely, that the argument of economic depression will apply

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to transactions on gold, because gold has been steadily going up in price and if there has been any fluctuation we find gold has been steadily increasing in value. And the debtor cannot complain of fall in the price of gold by economic depression. Since the bill was published in the Gazette, creditors fearing that even the amount due to them on pledge of gold will be refused or scaled down, are issuing notices to parties and selling gold immediately if debtors are not able to redeem their pledges in time. Generally the form of agreement for such transactions provides for the issue of notices by the creditor to the debtor calling upon him to pay the amount immediately and in default authorises him to sell by private or public auction the gold ornaments as he chooses. Such agreements are valid in law Nobody likes the prospect of money advanced on the security of gold to be cut off. It is therefore, as I said, unjust that the amount advanced on the pledge of gold should be reduced because the argument of economic depression will not apply. Secondly, it is an injustice which will be doing a great harm to the debtor himself, because by the time this law is passed he will find all gold gone since the creditor does not like the prospect of being compelled by legislation and resorts to the tactics of selling gold and realising money. *Malayala Rajyam* will show a long series of advertisements calling upon debtors to pay the amount or saying that the gold will be sold in public auction. Such notices are frequent and can be seen by anyone who has an eye to see them. So, Sir, we find that this is an amendment which is in the interest of the creditor community and which is also in the interest of debtors. One question may be raised that, as the bill does not apply to transactions after 1112, whether there are a large number of transactions in gold before to which the bill will apply.

My argument is this. The agitation for debt relief began some time about the year 108 or 109 when the Agriculturists Debt Relief Committee was appointed. It was then that the credit became restricted. On the advice of the committee a moratorium was given for a period. An adjournment motion was moved in the Assembly. There was not regular credit; persons who wanted money found it very difficult to get money. As Mr. George, the then Chief Secretary to Government observed in his speech, "Credit has become hopelessly restricted. People cannot raise money except under security of gold. Conditions have so worsened that something revolutionary has to be done to instill confidence in the minds of the people." I was then a member of the Assembly. That was in reply to an adjournment motion then moved by myself in the Assembly. That was the position even as early as 1110. These gold transactions were abundant even then. They are being renewed from time to time, and what now appears as transactions in the books of the Bankers and money-lenders are really transactions that are born even as early as 1110. No doubt much of the gold has disappeared; much of the gold has risen in value. But nevertheless a large number of transactions still remain in the country and most of them are transactions beginning from as early as 1109—1110. Now debtors will find by the time this Bill becomes law that

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[Mr. R. Sambasiva Aiyar.]

all gold has gone to Palghat or Coimbatore or Madras. There are big financiers like Amarchand to convert gold into Moosa gold and dispose of the same in the Bombay market. So the fact is that the 'Thali' or the 'Changali' of the debtors' wives disappear and till the bill becomes a law no creditor is going to wait to see his amount cut off by 30% and the balance given to him. So I submit in the general public interest that this amendment should be accepted.

**MR. S. KRISHNA AIYAR:** I second the motion.

**MR. PUTHUPALLI S. KRISHNA PILLAI:** Sir, the wording of the amendment gives sufficient scope for objection. The member refers to gold and gold ornaments only and I do not know why the member does not ask to include silver articles.

**MR. R. SAMBASIVA AIYAR:** A point for personal explanation. I am prepared to accept that amendment.

**MR. PUTHUPALLI S. KRISHNA PILLAI:** I am pointing out the inadvisability of adopting this amendment. I oppose it on these general grounds. It does not appear why the member does not think of diamonds, much more valuable than gold, set in platinum. Again he does not want to include articles made of silver and silver ornaments of which we have a good number in this country. Why so much has been said about gold is not very clear. It is said that those persons who have taken pledge of gold ornaments would sell away all the ornaments before the bill comes into force I think that is a fear that can be avoided by inserting a specific clause prohibiting such sales. I do not think there is much difficulty for guarding against such a contingency. But that is not the real reason why I say the amendment is objectionable. It is said that gold has risen in price and gold which was pledged for 13 rupees at the time the pledge would fetch 30 rupees at the time the bill is passed. It is common knowledge that gold in the hands of the people of the state is only one of the several small investments that he has made, in fact as valuable as but more portable and more easily convertible than, the 5 cents or 10 cents of land which he owns. As was pointed out by the Dewan the extent of land in this country is very much limited and people resort to various methods of making investments. It may be a man's life-earning, it may be the sole possession of a family. The underlying principle of this bill is to enable every debtor to pay off his debt and get whatever he has to ease his burden of indebtedness.

Why, at a time when the price of gold has gone up the debtors who have borrowed money on the security of gold, should be placed at a greater disadvantage than their brethren who have borrowed money on the security of the immovable properties is not clear. The arguments advanced by the honourable member are not convincing enough to justify a departure in this respect. This matter I understand was discussed and the House some time back came to the conclusion that there was no reason for granting exemption in favour of sums borrowed on the pledge of gold or gold ornaments.

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MR. T. C. KESAVA PILLAI: സർ, മി. സാംബശിവയ്യരുടെ ഭേദഗതിയെ ഞാൻ ശക്തിയായി എതിർക്കുന്നു. ഒന്നാമത്തേത് പണയം വച്ചിരിക്കുന്ന സ്വർണ്ണപ്പണ്ടങ്ങൾ പെട്ടെന്ന് വിറ്റുകളയും എന്ന് അദ്ദേഹം പറഞ്ഞതു നിയമപരിജ്ഞാനക്കുറവു കൊണ്ടായിരിക്കാം എന്നു വിചാരിക്കാനെ നിവർത്തികാണുന്നുള്ളൂ. ലിമിറേഷൻ റഗുലേഷൻ സെക്ഷൻ "ഏതു വകുപ്പുപ്രകാരം പണയത്തിനു 60 വർഷം കാലാവധിയുണ്ടു. വില്ക്കണമെങ്കിൽ കോർട്ടിൽ ഹാജരാക്കണം" എന്നു പറയുന്നുണ്ടു്. ഇപ്രകാരം പണയംവച്ചു് 60 വർഷത്തെ കാലാവധികഴിഞ്ഞതിനു ശേഷം മാത്രമെ ആളു വിൽക്കുവാൻ പാടുള്ളൂ.

MR. E. SUBRAMONIA AIYAR: Is the creditor bound to wait for 30 years?

MR. T. C. KESAVA PILLAI: കാലാവധി തികയുന്നതിനുമുൻപു് വിറ്റാൽ ഒന്നാംക്ലാസ് മജിസ്ട്രേട്ടുകേസിൽ പ്രതിയായി അപഹരണക്കുറ്റത്തിനു ശിക്ഷവാങ്ങിക്കും. രണ്ടാമതു പണയം വച്ചിരിക്കുന്ന പണ്ടങ്ങൾക്കു മാറ്റൊരാളുതന്നെ വലിയ നാശങ്ങൾ സംഭവിക്കും. ഒരു വലിയ പണക്കാരനായ ഒരാൾ അദ്ദേഹത്തിന്റെ കയ്യിൽ കിട്ടിയ ഒരു മോതിരം മാറ്റുനോക്കിയ മെഴുകു ഉരുക്കിയതിൽ നിന്നും ലഭിച്ച സ്വർണ്ണം കൊണ്ടുണ്ടാക്കിയതാണ് എന്നെന്നോടു പറയുകയുണ്ടായി. പണത്തിനു കട്ടവരുന്നതിനുമുൻപു സ്വർണ്ണത്തിനും അതുപോലെ കട്ടവരും. നാട്ടിന്റെ നാനാഭാഗങ്ങളിലുള്ളവരും തന്നെ ഈ നിയമം എങ്ങിനെയെങ്കിലും ഗവണ്മെൻറിൽ നിന്നും പാസാക്കി കഴിയുന്നതും വേഗത്തിൽ നടപ്പിൽ വരുത്തുമെന്നു് അത്യാകാംക്ഷയോടുകൂടി ആശിച്ചുകൊണ്ടിരിക്കയാണു്. അതുകൊണ്ടു് നാം പ്രസംഗിച്ചു കാലതാമസം വരുത്താതെ എത്ര രാത്രിയായാലും വേണ്ടുകില്ല.

PRESIDENT: Is the honourable member making that suggestion for to-day or some other day?

MR. T. C. KESAVA PILLAI: ഇന്നരാത്രികൊണ്ടുതന്നെ ഇതു തീർക്കണമെന്നാണു് ഞാൻ പറഞ്ഞതു്.

ഞാൻ ഈ ഭേദഗതിയെ എതിർക്കുന്നു.

MR. E. SUBRAMONIA AIYAR: I do not propose to take up much time of the House on this amendment. So far as this amendment is concerned I do not have any apprehension like my friend Mr. Kesava Pillai. Certainly a pledgee is entitled to sell the property pledged with him only after the notice of his intention to sell the property is served on the parties concerned. If that is done and subsequently the pledge is sold he need not be afraid of the criminal law.



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[Mr. E. Subramonia Aiyar]

But apart from that question, as for the anxiety felt by my friend Mr. Sambasiva Aiyar that all the creditors will immediately give notice and sell away the pledged articles I think it is not well founded. As the Legal Remembrancer has pointed out, if creditors are bent upon resorting to such acts and thereby impeding the course of legislation which we are seriously considering now, I may submit that the House is not powerless to deal with such stubborn creditors. On that point also we have no anxiety. But the substantial question is whether there is any room for discrimination in this particular matter.

The point underlying the Bill so far as I can see is this. Interest should not be made to accumulate. A debt should not be allowed to wait for a long time. When a debt gets old, when a debt becomes renewed, it should not be said that it is due entirely to the debtor but to some extent, it is due to the creditor as well. So far as the scheme of the Act goes, we are particularly applying the provisions to those claims which bear interest. The usufructuary mortgage is exempted for the amount will not be increasing day to day. No doubt, as pointed out, for 30 years a person can wait for redemption of the pledge. But nevertheless, if the creditor sells it, he cannot take 30 years' interest. So the scheme of the Act seems to be with respect to the claims that bear interest.

There is another aspect. Viewing the matter comprehensively, a person seldom pledges the jewels such as *thali*, or *changali*, unless he is compelled by circumstances to do so. It is the last resource. If he or she has other means of raising money, either on a promissory note or on the security of immovable property or on the help of sureties, that procedure will be attempted. The *thali* or the *changali* will be touched only at the last moment when a dire distress occurs. If the debtors are in such distress, I do not see why they should not get the benefit of the extra rise in the value of the gold. The people who have pledged their gold ornaments in time of dire distress, really deserve relief under the Act. With these observations I oppose the motion.

The amendment namely

In clause 4, add the following as a new clause :

"Sums borrowed on the pledge of gold or gold ornaments."

was put to vote and lost.

MR. R. SAMBASIVA AIYAR : Sir, I demand a poll.

A poll was taken with the following result :—

AYES—3.

| | | | |
|---|---|---|---|
| 1 | Mr. R. Sambasiva Aiyar | 3 | Mr. J. W. Tolson |
| 2 | ,, S. Krishna Aiyar | | |

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NOES—39.

| | | | |
|---|---|---|---|
| 1 | Mr. Kottalil P. Abraham | 22 | Mr. P. V. Mathai Chemparuthy |
| 2 | Mr. P. C. Adichan | 23 | Sahib Bahadur P. S. Muhamed |
| 3 | Sahib Bahadur V. Chandamiah | 24 | Mr. N. Narayana Kurup |
| 4 | Mr. K. Dominic Joseph | 25 | ,, K. Narayanaperumal Nadar |
| 5 | ,, D. Francis | 26 | ,, S. Narayana Pillai |
| 6 | ,, K. G. Govindan | 27 | ,, P. Narayana Pillai |
| 7 | ,, S. Govinda Pillai | 28 | ,, M. R. Narayana Pillai |
| 8 | ,, Kannanthodath Janardanan Nair | 29 | ,, Kainikara M. Padmanabha Pillai |
| 9 | ,, N. V. Joseph | 30 | ,, N. Ramakrishna Pillai |
| 10 | ,, Padiyara Joseph Kunju | 31 | ,, Codiveetil C Ramankunju |
| 11 | ,, Joseph Vithayathil | 32 | ,, M. Ramiah Pillai |
| 12 | ,, K. C. Karunakaran | 33 | ,, P. Sivarama Pillai |
| 13 | ,, T. C. Kesava Pillai | 34 | ,, M. Sivathanu Pillai |
| 14 | ,, T. T. Kesavan Sastri | 35 | ,, E. Subramonia Aiyar |
| 15 | ,, Kaviyoor K. K. Kochukunju | 36 | ,, Puliyoor T. P. Velayudhan Pillai |
| 16 | ,, N. R. Krishnan | 37 | ,, N. Velu Achari |
| 17 | ,, A. K. Kumaran Vaidyan | 38 | ,, G. Velu Pillai |
| 18 | ,, Thariathu Kunjithommen | 39 | ,, K. V. Joseph |
| 19 | ,, P. Kunjukrishnan | | |
| 20 | ,, K. Kunju Panickar | | |
| 21 | ,, Varkala K. Madhavan | | |

NEUTRALS—16.

| | | | |
|---|---|---|---|
| 1 | Mr. S. Chattanatha Karayalar | 9 | Mr. K. Sankaran |
| 2 | ,, E. E. Pandarathil | 10 | ,, V. R. Sankaranarayana Pillai |
| 3 | ,, C. Jebamony Nadar | 11 | ,, Puthupalli S. Krishna Pillai |
| 4 | ,, Menatheri N. Kesava Panickar | 12 | ,, M. Ramachandra Rao |
| 5 | ,, R. Narayanan Nambootiri | 13 | ,, K. R. Narayana Aiyar |
| 6 | Sahib Bahadur H. O. L. Marickar | 14 | ,, C. Kumara Das |
| 7 | Mr. M. K. Nilakanta Aiyar | 15 | Dr. H. Parameswaran |
| 8 | ,, S. Sundararajan | 16 | Mr. A. Gopala Menon |

The amendment was declared lost, 3 voting *for*, 39 *against* and 16 *neutral*.

MR. R. SAMBASIVA AIYAR : I request your permission Sir, to move first amendment No. 67 in the consolidated list which is more comprehensive with amendment No. 65.

PRESIDENT : I allow you to move that.

MR. R. SAMBASIVA AIYAR : I beg to move.

In Clause 4, add as another sub-clause :

"Any sum due to a person, the interest of which is that persons only source of maintenance, when the amount of the debt does not exceed Rs. 3,000."

Suppose there is a creditor who has surrendered his all to the debtor; please do not cut that asset if the amount does not exceed Rs. 3,000. If that creditor is one whose only source of maintenance is that, and

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[Mr. R. Sambasiva Aiyar]

with the interest derived therefrom he earns his living practically; please do not cut that asset. I think we have made a similar provision in this Act itself, that is, when a debtor becomes unable to pay. A reading of the Clauses 16 to 19 will show that. The principle underlying those new clauses embodied by the Select Committee of the whole House when the Bill was considered was that no man shall be a pauper, that no man shall be asked to forego his last pie merely because he happened to be a debtor. No doubt he is a debtor; he is poor; he has not committed a crime. Let us not make him a destitute or convert him a pauper. Let him not be a burden to society; give him something, his homestead at least. That was the principle that we adopted, when this Bill was considered by the committee of the whole House. I pray that the same principle may be applied to the creditor who has only very limited wealth and who is now suffering because he had given that all to his debtor. He is not to be blamed. After all, his only asset in this temporal world will be Rs. 3,000 and when we think that he has to maintain himself and his large family with that, why not give him that. Why does the Legislature want to make a cut in it. I know, Sir, that there are very many instances in which poor widows, mainly wives of Government servants have been placed in that position. What their husbands have invested in provident fund, that was given in a lump. That lump sum, their all, has been invested in hypothecation bonds I know one instance of that in Shertallai, He was an employee in the Agricultural Department. He died. He has left behind a large family. I am only pointing this out for the purpose of illustration. There was only a sum of Rs. 2,500 so far as that family was concerned. All that money is locked up with a debtor.

**PRESIDENT**: Let me ask the member one question. Will not that illustration involve a tremendous inquiry. In the case of honest people it is alright. Supposing they had really enough property which was entrusted elsewhere and then say that they had this Rs. 2,500 worth of property alone for their sustenance, would not such a case need an enquiry and all the rest of it?

**MR. R. SAMBASIVA AIYAR**: That cannot be helped, human nature being what it is.

My submission is just this: Merely because there may be some difficulties in conducting the enquiries to arrive at the true state of affairs, please do not shut out the beneficent influences of this principle. There are, I know, many persons in Travancore whose only income in this world is a sum of Rs. 3,000 or less. It is common knowledge in this country, about which I profess to know, that the people consider a hypothecation deed as good as a bond of the Imperial Bank. A hypothecation bond charged on an immovable property obtained from a respectable gentleman is considered to be as good as, if not much better than, a bond of the Government of India. That is the attitude the people of this country has learned to adopt. The people in this country are very honest and they are particularly desirous of honouring their obligations and it was so until this agitation began.

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With your permission, Sir, I shall read a pamphlet wherein this small story occurs showing how people consider themselves obliged to their creditors.

**PRESIDENT** : The honourable member will indicate the source before he reads out portions of the pamphlet.

**MR. R. SAMBASIVA AIYAR** : Sir, it is a book written by Mr. A. V. Kumaran B. A.

**PRESIDENT** : You are adopting the story ?

**MR. R. SAMBASIVA AIYAR** : Yes. At page 3 of the book, para 4, it is stated as follows :—

അധമർണ്ണന്റെ തത്വശാസ്ത്രം.

"സുപ്രസിദ്ധ കഥാകൃത്തായ കെ. സുകുമാരന്റെ ഏതോ ഒരു ചെറുകഥയിൽ ഇങ്ങനെ വായിച്ചതായി ഓർക്കുന്നു. ഭാര്യയും ഭർത്താവും കൂടി വീട്ടിലെപ്രാരബ്ധങ്ങളെപ്പറ്റി നടത്തിയ ധർമ്മസംഭാഷണങ്ങൾക്കിടയിൽ ഭാര്യപറഞ്ഞു. "പിന്നേ! കേട്ടോ, ഇന്നു പാലുകാരത്തി ഇവിടെവന്നപ്പോൾ ചോദിച്ചപ്പോൾ എന്റെ പക്കൽ ഒരു നാണയത്തിയുമില്ലാഞ്ഞു ഞാൻ യഥാർത്ഥമായി കരഞ്ഞുപോയി." അതിനു മറുപടി ഭർത്താവുപറയുകയാണ്. "എടീ പൂവേ അതു നിന്റെ ദോഷത്തരം. പാലുകാരത്തിക്കു പാലിന്റെ വില കിട്ടിയില്ലെങ്കിൽ കരയേണ്ടതവളല്ലെ? നിനക്കെന്തുപറ്റി? നീ എന്തിനു കരഞ്ഞു?" ഈ ഭാര്യാ ഭർത്താക്കന്മാർ രണ്ടുപേരും അധമർണ്ണർ തന്നെ എന്നിരുന്നാലും കടം കൊടുത്തു വീട്ടേണ്ടുന്ന സംഗതിയിൽ രണ്ടുപേരുടേയും അഭിപ്രായങ്ങൾ തമ്മിലുള്ള അന്തരം ഉത്തരധ്രുവവും ദക്ഷിണധ്രുവവും പോലെയാണ്. ഇതിൽ വായാടിയായ ഭാര്യാവിന്റെ തത്വശാസ്ത്രത്തോടു് അനുഭാവമുള്ള അധമർണ്ണരാണു് ഇന്നു ഒച്ചപ്പാടുണ്ടാക്കുന്നവരിൽ ഭൂരിപക്ഷവും. സ്വയം നീതിനിയമ അർഹത അത്തരക്കാർക്കല്ല, നേരെമറിച്ചു സാധുവായ ആ ഭാര്യയെപ്പോലുള്ളവർക്കാണ്. ഇന്നു കൊടുക്കാനുള്ളതു നാലുമാസമോ ഒരുദിവസമോ കഴിഞ്ഞു കൊടുത്താലും തരക്കേടില്ല. എന്നാലും ആ പാവപ്പെട്ട പാലുകാരിയെ വിഷമിപ്പിക്കരുതു്.

**MR. PUTHUPALLI S. KRISHNA PILLAI** : Sir, this question has been properly and duly dealt with. Her debt has not been brought within the ambit of the Bill.

**PRESIDENT** : I understand that this is cited as a point of analogy.

**MR. R. SAMBASIVA AIYAR** : Sir, it is as a matter indicating the mentality of the debtor that I cite this. For other purposes I have other stories.

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[Mr. R. Sambasiva Aiyar]

"അങ്ങിനെ വിഷമിപ്പിച്ചാൽ ആ സ്ത്രീ ഇനിമേൽ പാൽ വിൽക്കുന്നതിനുപകരം അതു സ്വന്ത ആവശ്യത്തിനു ഉപയോഗിച്ചു എന്നുവരാനാണ് എളുപ്പം. അങ്ങിനെവരുമ്പോൾ പാൽകിട്ടാഞ്ഞു അയൽക്കാരും, പാലിന്റെ ചക്രംവാങ്ങി നിത്യവൃത്തി നടത്താൻ സാധ്യമല്ലാഞ്ഞു പാൽകാരിയും വിഷമിക്കും. ഇരുകൂട്ടർക്കും അതു ദോഷമാണു, ഒരു കൂട്ടർക്കും ഗുണകരവുമല്ല. ഉത്തമർണ്ണന്മാരും അധമർണ്ണന്മാരും ഒരുപോലെ ധരിച്ചിരിക്കേണ്ട ഒരു പരമാർത്ഥമാണിതു്. അധമർണ്ണൻ ശ്ഠിക്കുന്ന രീതിയിൽ തന്നെ ഋണനിവാരണ നിയമങ്ങൾ ഉണ്ടായാലും അതു അവർക്കു തൽക്കാലം ഗുണകരമെന്നു തോന്നിയേക്കാമെന്നല്ലാതെ കാലാന്തരത്തിൽ അങ്ങിനെ ആയിരിക്കുകയില്ല എന്നുള്ള പരമാർത്ഥം അവർ ദീർഘദൃഷ്ടിയോടെ മനസ്സിലാക്കേണ്ടതാകുന്നു."

മേൽ ഉദ്ധരിച്ച കഥയിൽ വിവരിച്ച ആ നെറികെട്ട ഉസ്സാമത്തുക്കാരനായ ഭർത്താവിനെപ്പോലുള്ള അധമർണ്ണർ എത്രമാത്രം സൗജന്യം അർഹിക്കുന്നുണ്ടെന്നുള്ളതിനേക്കാൾ കൂടുതൽ ചിന്താർഹമാകേണ്ടതു കണിശത്തിനു കൊടുക്കൽവാങ്ങൽ ചെയ്യണമെന്നു ആഗ്രഹമുള്ള നേതുകാരിയായ ആ ഭാര്യയെപ്പോലെയുള്ള അധമർണ്ണർക്കു എത്ര സൗജന്യം അനുവദിക്കാമെന്നുള്ളതാണ്.

This is the moral of the story.

**MR. S. NARAYANA PILLAI :** Sir, May I know where the book is available ?

**MR. R. SAMBASIVA AIYAR :** It was sent to me today with the best compliments of the author.

I was submitting, Sir, that this story shows the general mentality of the people of the country. My submission is that the people of this country, generally in rural parts, think that a loan advanced to the neighbour on the security of immovable property or a simple mortgage is much better than a deposit in the Imperial Bank.

**MR. T. C. KESAVA PILLAI :** Sir, I raise an objection. My friend is impeaching the honesty of the whole country.

**PRESIDENT :** Yes, What may be called comprehensive epithets do not come within parliamentary difficulties. If these observations were with regard to particular individuals this question may be raised, but universal epithets do not come within the purview of parliamentary remarks.

**MR. R. SAMBASIVA AIYAR :** As the investments, I respectfully submit, are charged on land when invested in a mortgage or when held as a hypothecation bond, the people go in for investing in such bonds. There are people who do not understand the banking principle as it is being carried on now. They will readly give money to their neighbour whom they know well and on the basis of some hypothecation bond.

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Sir, we are familiar with the usual phraseology "മണ്ണിൽ ഞാറ്റുള്ള ഇടിയിക്കുന്നു", "ആ ചന്ദ്രതാരം," *i. e.* "as long as there is the sun and the moon, We have charged on the soil" etc.

**PRESIDENT :** We are just now concerned with the disappearance of one or two islands. (*Laughter.*)

**MR. R. SAMBASIVA AIYAR :** But somehow or other, this is the belief of the people in the rural areas. In many cases they estimate the wealth of the man not by looking at his bank accounts or other investments, but by seeing whether he holds any amount charged on immovable property on which he receives interest. They have advanced on simple mortgages to their neighbours at certain fixed rates of interest and every year they get their interest. It may be, sometimes, they receive the interest not in coins "ആണ്ടിലൊരു എട്ടുപറ നെല്ല്". Therefore it may be that generally the interest is payable in paddy and sometimes in money. When this is the true state of affairs, I submit that the principle of my amendment may be accepted.

Then with reference to the other question as to whether there will be any difficulty in finding out the person to whom such beneficial provisions may be justly given, I say that it is not, after all, a matter of very great difficulty. Whenever a point is disputed we have the Evidence Act to fall back upon. Evidence should be taken. In this case an applicant's neighbours may know everything. A person's neighbours may be able to tell who those persons are to whom relief may be meted out. The history of the transaction can be known by the evidence taken in that connection. It can be known who is rich and who is not, who stands in need of relief and who is above it. Therefore, this is a matter on which evidence has to be taken. Mainly because you experience a difficulty in enquiring into these matters, is it right to allow these persons to be treated worse than even debtors ? I say, please treat him at least as a debtor. After all, this creditor has not done any crime in advancing money like this. This was how money had been advanced, how life in this country was going on from time immemorial. Further, if a *rich* person has so deposited the money he may not be given relief. You may cut off his amount; that may be the socialistic philosophy advanced. Alright, I have no objection. But do not apply the same principle to the really poor creditor as in this case. Even his income by way of interest is not sufficient to feed himself and his five or six hungry mouths. Allow the creditor at least this grace. He was not, after all, doing such a disservice to his country. Let him have at least that consideration to which a debtor is entitled to. I submit that it will be very hard if this amendment is not accepted.

**MR. N. NARAYANA KURUP :** Sir my amendment may also be considered now.

**PRESIDENT :** Yes, you confine it to the widows. Are you seconding Mr. Sambasiva Aiyar's amendment ?

**MR. N. NARAYANA KURUP :** Yes. My amendment is that "In clause 4, add one more sub-clause, 'any debt due to a widow, the interest of which is her only source of maintenance provided the debt is below Rs. 3,000". On the face of it, it will be seen that there is not much

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[Mr. N. Narayana Kurup]

difference between the previous amendment moved and this one excepting the substitution of the word 'widow' for the word 'person'. I therefore support Mr. Sambasiva Aiyar's amendment.

**MR. PUTHUPALLI S. KRISHNA PILLAI:** Sir, Mr. Sambasiva Aiyar's amendment cannot be accepted for various reasons. Firstly, the expression used is inaccurate. "Any sum due to a person": who is the person meant? The term "person" has already been defined as including an undivided Hindu family, a Marumakkathayam tarwad etc. the only person who is not included being religious or charitable trusts. What Mr. Sambasiva Aiyar says is that if Rs. 3,000 is the only sum due to a tarwad from the interest of which that tarwad is maintaining itself that amount should not be touched. It will also apply to an association of individuals whether incorporate or not, because the definition of the word 'person' is the definition given in the General Clauses Act. Under the General Clauses Act, the word 'person' includes an association of individuals whether corporate or incorporate. If this exemption is to be availed of by an incorporate body I do not understand how the words "source of maintenance" can be applied in the case of an incorporated association or firm. Unfortunately, the form in which it is put is not acceptable to me. It is capable of being misinterpreted and misapplied. An incautious expression used in one part of the Bill will create difficulties in the application or in the interpretation of the other clauses. So it is on these technical grounds that I object to the adoption of this amendment.

I shall say a word about the substance of what is contained in this. The mover confines the amendment to individuals. Mr. Narayana Kurup confines his amendment to widows.

Mr. Sambasiva Aiyar wants to have it extended to widows, married men, women and children—any—individual. In drafting the bill one main principle that guided me and also the Select Committee was this. Avoid all source of dispute and doubt make it as plain and simple as possible. Do not give room for any kind of obstruction either on the part of the debtor or the creditor. Judged from that point of view, I think, Sir, that this is capable of creating great confusion in the application of the Bill. It is open to any creditor to contend that it is a debt which cannot be scaled down. The court will have to institute an enquiry and elaborate enquiries will have to be made. If however the House thinks that this is a matter which ought to be considered, I am prepared to abide by the decision of the House. But in any case if the House decides in favour of the amendment, it will have to be re-drafted and adopted.

**PRESIDENT:** I am speaking now only as a lawyer. There are legal difficulties. I am indicating another difficulty that may arise. Supposing there is a millionaire with a daughter who has married a poor man, Rs. 2,500 is set apart for her share. There is a moral duty and also a legal duty for the father to support her. So it cannot be said that her only source of income is only Rs. 2,500. Does she come within the scope of the amendment? It gives rise to many difficulties. It is open to redrafting if the principle is accepted by the House.

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The amendment was put to vote and lost.

MR. R. SA MASIVA AIYAR : Sir, I demand a poll. A poll was taken and the House divided as follows :—

AYES.—5

1 Mr. E. Subramonia Aiyar.
2 ,, R. Sambasiva Aiyar.
3 ,, S. Krishna Aiyar.
4 Mr. N. Narayana Kurup,
5 ,, S. Chattanatha Karayalar.

NOES—28.

1 Mr. Kottalil P. Abraham-
2 ,, P. C. Adichan.
3 Sahib Bahadur V. Chandamiah.
4 Mr. M. L. D'Cruz
5 ,, D. Francis
6 ,, S. Govinda Pillai
7 ,, M. L. Janardana Pillai
8 ,, Kannanthodath Janardanan Nair
9 ,, N. V. Joseph
10 ,, Padiyara Joseph Kunju
11 ,, Joseph Vithayathil
12 ,, Menatheri N. Kesava Panickar
13 ,, T. C. Kesava Pillai
14 ,, K. P. Kochukora Tharakan
15 ,, Kaviyoor K. K. Kochukunju
16 Mr. N. R. Krishnan
17 ,, A. K. Kumaran Vaidyan
18 ,, Murukkumpuzha V. Kunjukrishnan
19 ,, Varkala K. Madhavan
20 ,, P. V Mathai Chemparathi
21 Sahib Bahadur P. S. Muhamed
22 Mr. K. Narayanaperumal Nadar
23 ,, S. Narayana Pillai
24 ,, P. Narayana Pillai
25 ,, P. Sivarama Pillai
26 ,, Puliyoor T. P. Velayudhan Pillai
27 ,, N. Velu Achari
28 ,, G. Velu Pillai

NEUTRALS—25

Mr. M. K. Nilakanta Aiyar.
,, S. Sundararajan.
,, M. Ramachandra Rao
,, K. Sankaran.
,, Puthupalli S. Krishna Pillai.
,, K. R. Narayana Aiyar.
,, A. Gopala Menon.
,, V. R. Sankaranarayana Pillai.
Dr. H. Parameswaran
Mr. C. Kumara Das.
,, Kainikara M. Padmanabha-Pillai
Mr. K. Kunju Panikkar
,, K. C. Karunakaran
,, K. Dominic Joseph.
,, K. G. Govindan.
,, E. E. Pandarathil
,, T. T. Kesavan Sastri
,, N. Ramakrishna Pillai
,, J. W. Tolson
,, C. Jebamony Nadar.
Sahib Bahadur M. K. Mackar Pillai
Mr. M. G. Kesava Pillai
,, M. Ramiah Pillai
,, R. Narayanan Nambootiri.
,, M. R. Narayana Pillai.

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**MR. R. SAMBASIVA AIYAR :** Sir, I move amendment No. 65.

"In clause 4 add the following as another sub-clause :—

"Any sum due to a widow the interest of which is her only source of maintenance, when the amount of the debt does not exceed Rs. 3,000"

standing against my name. My last amendment was lost. It related to 'a person' and as pointed out by the Legal Remembrancer there may have been some 'drafting' irregularity in the term used. The scope of the word 'person' is so wide as to include corporate and incorporate bodies. Corporations have no souls to be damned nor bodies to be kicked. I suppose this is what the Legal Remembrancer said. My last amendment was considered objectionable on account of the fact that there was no 'human' element in it because the word 'person' referred to therein may include corporations which require absolutely no sympathy. But widows certainly have bodies and souls. They are not like corporations. In the Madras Act recently passed, this is, more or less, the wording and I have adopted that wording. I assume that there cannot be much difficulty in the form of it for at least one legislature has accepted it after very deep consideration. Here is a case where sympathy is required. Widows, absolutely helpless, do require our sympathy. I believe that the Legal Remembrancer would not strain himself to find out methods of rejecting the principle of this amendment of course he could say "why alone the widows". There are idiots, minors and a large number of other class of people. Why any special treatment for widows alone? I know, Sir, that there is this objection which can be thrown at my face. But I do submit that such persons have generally some guardians. In the eye of the law when a person is *non compos mentis* he is considered as not an independent entity. He can be represented only by other persons and they have their guardians. As you, Sir, pointed out, there may be persons who have got fathers and other rich relations who consider it their moral duty to support their wards and they will take care of them and do all that is necessary for them. The law presumes that they are not helpless because they have got their guardians. But the case of a widow is peculiar. She is supposed to be helpless. The customs in this country are not unknown to the members of this House. Generally, Sir, a woman, so long as she is a wife, is protected by her husband.

**MR. M. R. NARAYANA PILLAI :** Is it not possible for her to get re-married?

**MR. R. SAMBASIVA AIYAR :** Yes, it is possible.

**PRESIDENT :** When there is any source of income.

**MR. R. SAMBASIVA AIYAR :** In the first place she may not wish to be married. But there may be countries in which they may like to be re-married. But that is not a matter with which we are now concerned.

The point that I wish to submit is that the widows should form a separate class distinct from the other classes of persons who are ordinarily helpless.

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MR. PUTHUPALLI S KRISHNA PILLAI: One matter on which I entertain some doubt is whether the member contemplates only the widows governed by the Hindu Law or all widows?

MR. R. SAMBASIVA AIYAR: All widows.

In the case of widows practically nothing is left to them for maintenance. In the case of Government servants there may be some sort of gratuity or provident fund. Some consolidated amount is paid to the heirs and I think the widow is singled out for any preferential treatment. Therefore in the case of these widows some amount, a sum less than Rs. 3,000 is given. Under the gratuity rules Rs. 3,000 seems to be the maximum. That amount is invested with a neighbour on the security of land. As I said, when speaking on another motion, people in this country consider that investment on land is the best sort of investment that is humanly possible. Therefore a neighbour gets money from the widow. She relies upon the income obtained for her maintenance. There may be children, minor children and other persons who may depend on her. When her son becomes major and when he is able to support her, she may not deserve any special consideration. This is a case for which at least one legislature, the Madras Legislature, thought it fit to provide. I submit that we will be failing in our duty if we do not think sympathetically of them and deny the right to get the amount that she has lent out. A 50 per cent cut will strike at the very heart of the widow. That should not be done. As Mr. Narayana Pillai said, when she marries, she ceases to be a widow.

MR. JOSEPH VITHAYATHIL: Suppose she is able to get married within six months after the passing of this Regulation?

MR. R. SAMBASIVA AIYAR: If within six months the lady is able to find a husband, then she will not be a widow. My friend thinks of the possibility of the widow remarrying after getting the money. Look at the attitude of the debtor.

The implication of the question is that so long as you happen to be a woman there must be somebody to come to your aid. If within six months if a woman finds herself successful in getting a husband she ceases to be a widow.

MR. JOSEPH VITHAYATHIL: Suppose a widow marries after six months she can get the advantage of the act although she is not a widow.

MR. R. SAMBASIVA AIYAR: After all that is a question which must be left to her. If within six months such a contingency takes place let her have the advantage. But what is happening is even if a widow is desirous of getting a husband she finds it impossible to secure one after a strenous effort for six months. Now-a-days nobody cares for second-hand stuffs.

PRESIDENT: But the recent trend is on the contrary. In certain quarters second-hand stuffs are in great demand.

MR. R. SAMBASIVA AIYAR: Sir, I know that in America and certain other countries test marriages and love marriages.....

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**PRESIDENT:** Companionate marriages also.

**MR. R. SAMBASIVA AIYAR;** Yes, Sir, companionate marriages are also in vogue.

**PRESIDENT:** I think the prospects of matrimony in the case of a destitute widow are matters not really pertinent to the question in hand. Let us confine to widows who are widows.

**MR. R. SAMBASIVA AIYAR:** Sir, I bow to your ruling. But Mr. Joseph was 'pricking' me with his widows. After all there is also the possibility that a widow may die after six months. But my friend only thinks of widows getting married and living happily. There is a contingency that a widow may die after six months. Then my friend may say that she has her heirs and successors.

**MR. JOSEPH VITHAYATHIL:** Under the Madras Act this provision does not affect women.

**MR. R. SAMBASIVA AIYAR:** It is the widow not women that we are concerned with at present. Mr. Joseph says that when a widow marries she ceases to be a widow and no privilege should be given to her. There are other possibilities as well. The widow may die. My submission to the House is that no cut should be imposed in the case of a widow who is to get back her money and she should be specially exempted from this Act. This should be done especially when we are at the frontiers of British India where women have been exempted so that there must be some sort of uniformity of law. With these words I commend the motion for the acceptance of the House.

**MR. N. NARAYANA KURUP:** I support the motion.

**MR: T. C. KESAVA PILLAI:** സർ, മിസ്റ്റർ സാംബശിവയ്യരുടെ ഭേഗതിയെ ഞാൻ പിൻതാങ്ങുന്നു. അതോടുകൂടി എനിക്കു രണ്ടു വാക്കു പറയുവാനുമുണ്ട്. തിരുവിതാംകൂറിലെ വിധവകളെപ്പറ്റി പറയുമ്പോൾ എണ്ണായിരത്തിനേയോ പതിനായിരത്തിനേയോ ഉദ്ദേശിച്ചുമാത്രം പറയാൻപാടുള്ളതല്ല. എന്നാൽ വിധവകൾ എന്നു പൊതുവേ പറഞ്ഞാൽ അതുനിമിത്തം പല ആപത്തുകളും വന്നുചേരാൻ ഇടയുണ്ട്. ഒരു അവിഭക്തഹിന്ദുകുടുംബമോ ക്രസ്ത്യനി കുടുംബമോ പ്രാധാന്യത്തിലിരുന്നകാലത്ത് ആ കുടുംബങ്ങളിൽ സ്ഥാവരസ്വത്തുക്കളും പണവും ഉണ്ടായിരുന്നിരിക്കും. ഈ ബില്ലിന്റെ തത്വത്തെ അടിസ്ഥാനപ്പെടുത്തി കുടുംബം ഭാഗിക്കുമ്പോൾ മൂവായിരം രൂപ വിധവയുടെ പേർക്കു നീക്കിവയ്ക്കുന്നു എന്നു വിചാരിക്കുക. ഭാഗം കഴിഞ്ഞ് ഒരു വർഷം കഴിയുമ്പോൾ ഭർത്താവു മരിക്കുന്നു. അല്ലെങ്കിൽ ഭർത്താവിനെ ഏതുവിധത്തിലെങ്കിലും കൊല്ലാനുള്ള വഴി നോക്കി തുടങ്ങുകയും അങ്ങിനെ വിധവയുടെ നിഴലിൽ നിന്നുകൊണ്ട് രക്ഷപ്പെടുന്നതിനു ശ്രമിക്കുകയും ചെയ്യുന്നതാണ്. അതുകൊണ്ട് പ്രമാണത്തിൽ വിധവ ഏതെന്നു പ്രത്യേകം വിവരിച്ചിട്ടുണ്ടോ

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യിരിക്കണം. തെളിവു എടുക്കേണ്ടിവരുന്നെങ്കിൽ വിധവയാണെന്നുള്ള തെളിവ് ആ വിധവതന്നെ കൊടുക്കുകയും വേണം. അങ്ങിനെ യഥാ ത്ഥവിധവയ്ക്ക് മാത്രമെ ആ തുക കൊടുക്കുവാൻ പാടുള്ളൂ. ചില ഗ്രാമങ്ങളിൽ മറ്റാളുകളോട് യാതൊരു സമ്പർക്കവുമില്ലാതെ സാധു ക്കളായ പല വിധവകളും താമസിച്ചുവരുന്നുണ്ട്. അവർ സ്വർണ്ണാഭ രണങ്ങളോ മറ്റൊ പണയം വച്ച് ഇരുന്നൂറോ മുന്നൂറോ രൂപയും സമ്പാദിച്ചു വാങ്ങി കാലക്ഷേപം ചെയ്യുന്നതിനെ അപഹരിക്കണമെന്നു ഇവിടത്തെ കടക്കാരാരും ആഗ്രഹിക്കുമെന്നു തോന്നുന്നില്ല. അതുകൊ ണ്ടു മൂവായിരം രൂപാ എന്നുള്ളതു് അയിരം രൂപാ എന്നു ഭേദഗതി ചെയ്താൽ നന്നായിരിക്കും. ഈ ഭേദഗതിയോടുകൂടി മി: സാംബശിവയ്യ രുടെ ഭേദഗതിയെ ഞാൻ അനുകൂലിക്കുന്നു.

**MR. E. SUBRAMONIA AIYAR :** Sir, so far as this motion is concerned I do not find my way to support Mr. Sambasiva Aiyar. The reason is I do not see why the widow should be protected in preference to all other individuals who are unable to live without the aid of another person. My learned friend has pointed out there are idiots and lunatics who require the aid of another person to live on. If those people are not entitled to protection I don't see why widows as a special class require protection. One argument which was brought forward in favour of this is that the Madras Act was fond of widows. That is no reason why we should blindly accept that. My point is, is there anything peculiar in the case of widows that we should treat them as a special class. If the widow is young she has a chance of matrimony. And if there are old widows for whom a prospect of matrimony is not in sight should they be protected? In that case old men or rather old widows should also be protected. After all what is the distinction between a widow and a widower? The distinction is only that one is a man and the other is a woman. Whether man or woman when grown old requires the aid of other to live on. Therefore if we discriminate there must be strong reasons for such a discrimination. The fact that a person has only a sum of money which is in other people's hands and which is hardly sufficient to maintain himself may be justification in seeing that that money should be preserved for him in fact without any reduction and limitation. But when the house has indicated its view that it is not willing to do that, then why should we discriminate between a widow and other persons. On these reasons I oppose the motion.

**MR. PUTHUPALLI S. KRISHNA PILLAI :** Sir, I do not want to say much on this motion. I think I should again point out the inherent defect in the motion.

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[Mr. Puthupalli S. Krishna Pillai.]

In the Madras Act the provision is as follows :—

"Any debts or debts due to a woman on the first October 1937 who on that date did not own any of the property provided that the principal amount of the debt or debts did not exceed Rs. 3,000."

There is no special favour shown to a widow as distinct from other women. One very serious drawback in this amendment is this. But if it were better worded I would not have any objection to it. In the amendment it is said "Any sum due to a widow, the interest of which is her only source of maintenance." Suppose a widow happens to be a cook in a neighbour's house and makes Rs. 2 per mensem, one meal a day, and two clothes in an year.

PRESIDENT: Not unless there is continuous contract. There is no doubt that the wording has to be altered. If there are other sources for maintenance the widow would not be entitled to get any benefit from this section.

MR. PUTHUPALLI S. KRISHNA PILLAI: But there are in the case of many widows many other sources of income. A widow may be getting some small monthly contribution from her son who is employed say, in Chingelput. In such a case she would not become entitled to the benefit of the provision. "No other source of income" is so indefinite and vague that to get the benefit of the provision, she will have to give up all her other sources of income however uncertain or small they may be. If the principle is accepted by the House, the clause will have to be re-drafted. I have nothing to say either in support of this or in opposition to it. I am perfectly willing to be guided by the decision the House may arrive at on the question.

The amendment of Mr. Sambasiva Aiyar that 'In clause 4, add the following as another sub-clause :—

any sum due to a widow, the interest of which is her only source of maintenance when the amount of the debt does not exceed Rs. 3000", was put to vote and declared lost.

MR. R. SAMBASIVA AIYAR: I demand a poll.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: I rise to a point of order. Can a member demand a poll when the number of votes in support is only one?

PRESIDENT: There was more than one vote for his motion. Apart from that, there is an inherent jurisdiction in the Chair, if the poll is demanded without adequate reason, to defer doing so. But I find from the discussion that the root idea of this amendment was not unpalatable to a large number of people. I have allowed the poll in order that the honourable member may know who are disposed favourable and who stand against.

A poll was taken and the House divided as follows :

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AYES.

1 Mr. S. Chattanatha Karayalar
2 ,, M. L. Janardana Pillai
3 Mr. T. C. Kesava Pillai
4 ,, R. Sambasiva Aiyar
5 ,, N. Narayana Kurup

NOES.

1 Mr. Kottalil P. Abraham
2 ,, P. C. Adichan
3 ,, D. Francis
4 ,, S. Govinda Pillai
5 ,, N. V. Joseph
6 ,, Joseph Vithayathil
7 ,, Kaviyoor K. K. Kochukunju
8 ,, Murukkumpuzha V. Kunjukrishnan
9 ,, K. Kunju Panickar
10 ,, Varkala K. Madhavan
11 Mr. P. V. Mathai Chemparathy
12 ,, K. Narayanaperumal Nadar
13 ,, S. Narayana Pillai
14 ,, P. Narayana Pillai
15 ,, N. Ramakrishna Pillai
16 ,, E. Subramonia Aiyar
17 ,, Puliyoor T. P. Velayudhan Pillai
18 ,, N. Velu Achari
19 ,, G. Velu Pillai

NEUTRALS.

1 Mr. K. Dominic Joseph
2 ,, E. E. Pandarathil
3 ,, K. G. Govindan
4 ,, C. Jebamony Nadar
5 ,, Kannanthodath Janardanan Nair
6 ,, K. C. Karunakaran
7 ,, Menatheri N. Kesava Panickar
8 ,, M. G. Kesava Pillai
9 ,, T. T. Kesavan Sastri
10 ,, S. Krishna Aiyar
11 ,, N. R. Krishnan
12 Sahib Bahadur M. K. Mackar Pillai
13 Sahib Bahadur H. O. L. Marikar
14 Sahib Bahadur P. S. Muhamed
15 Mr. Kainikara M. Padmanabha Pillai
16 ,, Codiveetil C. Rannankunju
17 ,, M. Raniah Pillai
18 ,, Mr. P. Sivarama Pillai
19 ,, J. W. Tolson
20 ,, N. Velu Achari
21 ,, M. K. Nilakanta Aiyar
22 ,, S. Sundararajan
23 ,, K. Sankaran
24 ,, Puthupalli S. Krishna Pillai
25 ,, M. Ramachandra Rao
26 ,, K. R. Narayanan Aiyar
27 ,, A. Gopala Menon
28 ,, V. R. Sankaranarayana Pillai
29 Dr. H. Parameswaran
30 Mr. C. Kumara Das

The amendment was accordingly declared lost, 5 voting *for*, 19 *against* and 30 remaining *neutral*.

**PRESIDENT**: The question before the House is that clause 4 do stand part of the bill.

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MR. R. SAMBASIVA AIYAR: I oppose for the following reasons: The various sub-clauses of clause 4 contain a description of a series of debts and liabilities which are not sought to be affected by any of the provisions of this Act. Clause 3 says that subject to the provisions of sections 4 to 7 this Act shall apply to all debts subsisting on 23rd of Dhanu 1112 and subject to the condition that the renewal of the debts after that date be also considered as subsisting on 23rd Dhanu 1112. Clause 4 deals with exceptions. There are other series of exceptions embodied in clauses 5 to 7.

Clause 4 is sub-divided into other clauses from a to j, each enumerating different items. My objection does not relate to any particular item excepted, because my submission is all these were rightly exempted. But what exactly is the principle of this exemption? Have these exemptions been made in a haphazard manner, clubbed together without any principle just as it suits the convenience of any particular person? or is there any central principle, is there anything to connect one item with another? For example clauses a, b, c relate to the exemption of any revenue payable to Governments, Municipalities and on Sreepadom leases. Is there any principle that runs through all these exemptions? It is for that principle we look and that principle we would also expect to find in clauses 5, 6 and 7. If that principle embraces other cases, then those cases of non-exemption are not right. If any principle is followed, what exactly is it and is it exhausted? Is there no scope for further clauses? It is in that light I wish to address this House.

Now the principle can be generally said to be this, viz., Paramount Public interest. That is to say this law is ordinarily intended to affect everybody, creditor or debtor. But then there are certain paramount considerations, some major considerations of State policy by which the rights of individuals have to be sacrificed. There are such considerations as will outweigh ordinary individual convenience. Viewed in that aspect clause (a) relates to revenues and dues to Government and liabilities of the Government. Certainly, considerations of Government are very paramount because public money should not suffer. It is not right that public money owing to Government should not be paid and it is also proper that Government when it has to pay money should pay every pie of it. Otherwise the credit of the Government would be at stake. The same applies to Municipalities, because it is a quasi-Governmental institution. I do not mean to talk of every other case, but in all these the underlying principle is the same. Applying this principle let us try to see whether other cases should not be included or whether the principle is found in such cases. Take the case of Co-operative Banks. What exactly is the position of the Co-operative Banks? Is there any difference between Co-operative Banks and Municipalities? If as in clause (b) "any tax, cess, fees or other payments due to any Municipality, Village Panchayats or Village Union or other local authority or any liability arising from any transactions with them" be exempted, I ask

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whether Co-operative institutions also would not come within the principles embodied in clauses (*a*) and (*b*). Government take a parental interest in such institutions. Government have been encouraging and supporting co-operation all along. Even in the present budget speech of the Financial Secretary, there is a special para relating to co-operation, wishing good luck for co-operation, sanctioning money and encouraging co-operation. You, Sir, in your address advised the people to co-operate more, co-operate in the proper spirit so that they might tide over the economic distress. It is certainly good that co-operative institutions should be encouraged and nothing should be done which would impair the fair name of co-operation. After all with the present international situation and the panic in money markets, where will you find comfort except in co-operation, doing co-operative work and thus find out a kind of remedy for this panicky situation. I am painfully constrained to observe that the Legal Remembrancer, yesterday, when I referred to this, said co-operative societies deserve to be destroyed. He further observed that they should be destroyed was the Devadhar Committee report and the report of so many others.

**PRESIDENT**: What the Legal Remembrancer must have meant is that the weaker and the rotten ones should be cut off.

**MR. PUTHUPALLI S. KRISHNA PILLAI**: Even to that extent I did not go. I said that is public opinion. And there was a full exhibition of that opinion immediately afterwards when the whole House with one voice stated that it must be included in the bill. All these are only a repetition of the arguments which were heard yesterday.

**MR. R. SAMBASIVA AIYAR**: I promise to repeat nothing in the same form once again.

**MR. PUTHUPALLI S. KRISHNA PILLAI**: A point of order, Sir, we are concerned more with the spirit of the speech than of the form.

**MR. R. SAMBASIVA AIYAR**: I must submit that the principle that underlies clause (*b*) "any tax, cess, fees or other payments due to any Municipality, Village Panchayat or Village Union or other local authority or any liability arising from any transaction with them" has not spent itself out. It would spend itself out only if co-operative banks are included in the class of institutions which come in clause (*b*). What is the reason for not including it as a sub-clause? It is only for that I repeat it. It is not for repetition's sake. The next question will be what exactly is the connecting link between the Village Panchayats and Municipalities on the one hand and co-operative institutions on the other. I may legitimately be asked to explain what exactly I mean by saying that in clause (*b*) wherever "any tax or cess, fees or other payment due to any Municipality, Village Panchayat or Village Union or other local authority or any liability arising from any transaction with them."

**MR. PULIYOOR T. P. VELAYUDHAN PILLAI**: I rise to a point of order Under Rule 28 and Rule 29, *i.e.*, paragraphs 61—2e, (page 24) and 72—(Page 28), the member who persists in dealing with repetition abuses the right of speech for obstructing the business of the Chamber.



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**PRESIDENT**: Paragraph 61 2 e is to the effect that a member while speaking must not use his right of speech for the purpose of obstructing the business of the Chamber. I do not think that rule applies here. I take it that the Honourable Member is so convinced of the righteousness of his cause that he wants to put forward his views permissible on every occasion. He is perfectly entitled to do so. But there is a point in Rule 29 and I would invite the Honourable Member's attention to it. He is an experienced person. I was not here unfortunately yesterday to know whether he is persisting in tedious repetition. No doubt in speaking on such a kind of motion, *viz.*, opposing the passage of a particular clause, Honourable Members are at liberty to traverse the general principles of the clause and to adduce arguments to show that the clause as amended or not amended is unacceptable. But if a sub-clause or integral portion of a clause has been discussed at length and various arguments have been advanced, and counter-arguments too, and decisions have been taken, then I think the Honourable Members who speak over again in respect of matters on which such arguments have been adduced and referred to and rejected, will come within the mischief of Rule 24. I think the Honourable Member will bear that in mind.

**MR. R. SAMBASIVA AIYAR**: I shall bear that in mind. There is no difference in the principle underlying clause (*b*) and the clause relating to Co-operative Banks. I shall refer to a matter which was not talked about yesterday. So, there can be no repetition in regard to it. The principle contained in the clause has not spent itself and cannot spend itself unless other cases are also included.

In regard to trade debts what exactly was the recommendation of the Debt Relief Enquiry Committee presided over by Dewan Bahadur V. S. Subramonia Aiyar?

**PRESIDENT**: Before the Honourable Member proceeds further, although constructive res judicata is not applicable to legislative bodies, the Honourable Member might remember that what was once adduced technically, with sufficient particularity and rejected or what ought to have been said but has been omitted must be taken to have fromed part of the grounds of the decision which cannot be reopened.

**MR. R. SAMBASIVA AIYAR**: Sir, my submission is that both in the case of trade debts and debts due to Co-operative Societies the recommendation in the report of the Committee was that interest may be reduced to 9 per cent. This was a matter which was not referred to yesterday for the simple reason that it was not relevant. What the report says is this.

> "Debt legislation in other parts of India being confined to agriculturists the obligation arising from trade transactions did not come within their purview."

The Committee's recommendation is:—

> "We have therefore decided that trade debts should also be brought within the operation of the relief provisions we have recommended. But as in the case of banks, we are in favour of allowing a higher

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rate of interest for trade debts. We fix the maximum realisable at 9 per cent per annum. And in order to protect dealings as stated above from becoming frozen, we decide that as regards dealings which have continued or arisen after 1-1-1112, the provision as to repayment of debts in instalments should not apply. Subject to these reservations, all the relief measures we have already proposed will apply to trade debts also."

That is to say, there is a distinct recognition of the principle that trade debts do stand on the same level with bank debts. Subject to Clauses 4 to 7 clause 3 applies to all debts. The provision relating to banks is found in clause 6. The Committee say that trade debts should be treated as bank debts. Therefore, that principle was recognised in the report of the Debt Relief Enquiry Committee.

With reference to co-operative institutions there again I am not repeating and the fact was not at all mentioned yesterday—the recommendation of the Committee is given in paragraph 97 at page 34 of the report (I am referring to the majority report and not to the dissenting minutes).

"We have, therefore, come to the conclusion that all the relief provisions we have proposed regarding scaling down of debts should apply also to Co-operative Societies and Co-operative Banks. The only special concession that we think they should have on account of their peculiar position is that the maximum rate of interest realisable shall be 9 percent simple interest per annum instead of the general rate fixed by us. The practice of levying penal interest on co-operative transactions should be absolutely prohibited".

Therefore, there also the Committee said that co-operative banks should be treated on a par with ordinary banks. That is the purport of the recommendation of the Committee. The principle of the recommendation is that transaction of co-operative banks and trade debts should all be recognised and treated as on the same level. But there is some sort of restriction placed on them. They are not allowed to realise more than 9 per cent. Thus it is not absolute protection as contemplated in clause 4, but a limited protection as embodied in clauses 5 to 7. The protection is more liberal in clause 4 because it gives absolute exemption. The principle being the same, it is limited and defined to some extent in clauses 5, 6 and 7, with reference to usufructuary mortgages, transactions of banks and a set of other transactions. In sub-clauses (*a*) to (*j*) of clause 4 unlimited protection is given. But the principle is the same, the principle of protection. Why? Because it is a question of the paramount public interest that should do away with every other consideration and no individual can come and say "My interests are affected." It is something like the introduction of martial law when there is an extraordinary situation. Therefore the principle of absolute protection was embodied in Clause 4. A limited protection was given with reference to the rate of interest for certain kinds of transactions in clauses 5, 6 and 7. Therefore my submission is that that principle which has been enunciated should be made to spend itself.

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MR. T. C. KESAVA PILLAI: മെംബർ സിലക്ററ കമ്മിററിയിലും ഡെററ്റിലീഫ് കമ്മിററിയിലും മെംബറായിരുന്നില്ലെ?

MR. R. SAMBASIVA AIYAR: ഞാൻ സിലക്ററ കമ്മററിയിൽ മെംബർ ആയിരുന്നു. എന്നാൽ ഡെററ റിലീഫ് കമ്മിററിയിൽ മെംബർ ആയിരുന്നില്ല.

MR. T. C. KESAVA PILLAI : സിലക്ററ കമ്മിററിയിൽവച്ച് ഈ കാര്യത്തെപ്പററി വാദപ്രതിവാദങ്ങൾ നടത്തിയിട്ടില്ലെ?

MR. R. SAMBASIVA AIYAR: I decline to answer that question, Sir. He wants me to disclose what happened in the Committee.

MR. T. C. KESAVA PILLAI : സിലക്ററ കമ്മിററിയിൽവച്ച് ഈ കാര്യത്തെപ്പററി വേണ്ടിടത്തോളം വാദപ്രതിവാദം ചെയ്തിരിക്കുന്നസ്ഥിതിക്ക് അതേ സംഗതിതന്നെ വീണ്ടും ഇവിടെ എടുത്തു പറയുന്നതു അനാവശ്യമായി സമയം കളയുകയല്ലെ?

MR. R. SAMBASIVA AIYAR : Sir, I decline to answer that question.

PRESIDENT : Order, order. The Honorable Member is entitled to say that the proceedings of the Select Committee meetings being confidential, the question and the answer are beside the point.

MR. R. SAMBASIVA AIYAR : I was submitting, Sir, that this principle which finds a place in the report of the Debt Relief Enquiry Committee has been completely forgotten in the framing of this Bill. If that principle had been kept in view while this Bill was framed, clause 4 should have been different, because the principle has not been allowed to spend itself. What is the reason for it ? Now, the Legal Remembrancer will say that co-operative societies do not deserve sympathy. I am only saying it as an illustration and not for the purpose of repetition. It is not a question of demonstration by the House against the Co-operative Societies. It is only a question of accepting a principle and applying that principle logically to every part of the Bill. Or is it merely a haphazard principle running through certain provisions of the Bill ? Should we not proceed on certain fundamental principles ? Are they complete or are they incomplete ? If they are incomplete, why are they incomplete and why do you not complete them ? I am putting the question to the Law Member why he has not brought all the other cases also in the Bill. It seems to me, Sir, that there has not been clear thinking in this matter, that the whole matter has been put together haphazardly. We must know what it will lead to logically. When dealing with clauses 8 to 11 at the time amendments were sought to be moved to them, the Legal Remembrancer said exactly the same thing that the same principle should underlie those clauses. He said that the principle must not be affected. In the same way, Sir, I would now put it to the Legal Remembrancer that, having enunciated a principle which underlies these clauses, he should not omit to include all the cases which will make the principle spend itself. I want an answer.

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The question that clause 4 do stand part of the Bill was then put and carried.

**MR. R. SAMBASIVA AIYAR :** I demand a poll.

**PRESIDENT :** I do not think that it is necessary as only one voted against the passage of the clause.

Clause 4 was added to the Bill.

**PRESIDENT:** Order, order. At this stage I think I must inform the Honorable Members of the position in which we are in regard to this Bill and the programme which the Government have in their mind's eye. I find that there are 178 amendments that have been tabled and we have done up to 67. Even assuming that a certain number of Honorable Members do not press their amendments, the residual amendments may take some considerable time, judging from the progress that has been made so far. I should like to have the opinion of this Honorable House as to what they intend to do. Tomorrow and the day after may be required for studying the Budget and the day after that the general discussion of the Budget will commence. I should like to know if the Honorable Members have any idea of going on with the Bill now or some time later on.

**MR. KAINIKKARA M. PADMANABHA PILLAI:** I have consulted my party on this matter. We are particular to having tomorrow and the day after free for studying the budget. As for the other days we have no objection to sit any time during the day or the night and for any length of time. We can begin at 7 O'clock in the morning and continue till 12 at night.

**MR. C. JEBAMONY NADAR :** A chit was in circulation in regard to this matter and we have expressed our opinion on the matter.

**MR. S. KRISHNA AIYAR :** I wish to express my objection to sitting after 5 O'clock.

**MR. R. SAMBASIVA AIYAR :** So far as I am concerned, I may state that it will lead to physical exhaustion. Practically there is no body else to express the views that I want to express and I am not very strong either. Further, night session will mean an additional strain on my eyes.

**PRESIDENT:** Suppose the House confines itself to the budget during the day time and legislation at night, does that meet with the approval of the House?

**MR. PUTHUPALLY S. KRISHNA PILLAI :** As he is a co-opted member for the purpose of this Bill, he need not worry himself by reading the Budget.

**PRESIDENT:** The only method that can be devised under that circumstances, is this. If honourable members can sit after an early dinner for a couple of hours in the evening till half past nine or ten that can be adopted for two days then you might make more progress. In that case we will be imitating the House of Commons practice. That is the procedure they adopt. If honourable members are agreeable to that idea and if they think that their physical energies will stand that strain, it is for them to decide. As for me, I am perfectly willing.

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MR. KAINIKARA M. PADMANABHA PILLAI: What about to-day Sir?

PRESIDENT: It is difficult because the President and all the official members have to be present at some other place. Does the idea of what may be called a night sitting, meet with the wishes of the members generally?

(The members indicated their assent.)

PRESIDENT: So, far Friday and Saturday, the House will sit from half past seven to 10 p. m. and an early dinner will have to be the order of the day.

(The President left the Chair and the Deputy President occupied it.)

**Clause 5.**

MR. P. V. MATHAI CHEMPARATHY: Sir, I move in Clause 5, sub-clause (1) Exception (b), add the following after the full stop.

"Where the mortgagee has claimed the recovery of the mortgage amount the mortgagor shall be entitled to obtain possession of the mortgaged property on payment of any one or more of the instalments of the mortgage debt according to the provisions of Section 9, provided that the mortgagee shall continue to have a charge on the mortgaged property for the balance of the debt and interest due to him under the provisions of this Act."

My object in moving this amendment is this. There is difficulty in accepting Clause 5, sub-clause 1 without my amendment. It reads,

"Except in the cases mentioned hereunder, nothing contained in this Act shall affect any usufructuary mortgage.

Exceptions (a) any transaction which purports to be a usufructuary mortgage but which is proved to have been intended to be or treated only as a hypothecation.

(b) A claim by the mortgagee whether arising under a decree or otherwise for recovery of the mortgage amount.....

In order to get the benifits under this Act the debtor must make payments as provided in Section 9.

Where the mortgagee has claimed for the amount by means of a suit, then the mortgagor is entitled to pay according to provisions of section 9. Section 9 provides that the mortgagor must pay in regular instalments so that he may get the benefit under the Act, but the section does not contain any provision enabling the mortgagor, to recover possession of the mortgaged property. Or else the mortgagee will be having the possession of the property and realising the income from it as well as the regular instalment payments. This is a great handicap for the mortgagor. Therefore no mortgagor will choose to take the benefits under exception (b). These ideas do not reconcile. Therefore some explanation is needed to exception (b) to sub-clause 1 of Section 5. As the section stands, there is practical difficulty in applying the provisions. Unless my amendment is added, it is doubtful whether the mortgagor will be enabled to have the benefit of the section.

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**MR. C. JEBAMONY NADAR**: I second it.

**MR. PUTHUPALLY S. KRISHNA PILLAI**: Sir, I oppose it. Such an amendment is unnecessary. Ordinarily, in a usufructuary mortgage, the mortgagee, for the recovery of the mortgage amount surrenders possession of the property and claims interest. Where such surrender has not been made, the plaint will contain a demand for enhanced interest or a statement that the income from the mortgaged property fetches only so much percentage of interest. In such a case, there will be absolutely no difficulty in allowing the property to be with the mortgagee if the mortgagee elects to keep possession of the property. Then future interest will not accumulate. Further, it is provided under Clause 12 that no debt shall carry future interest at rates exceeding 4 per cent. per anuum. If the property is in the mortgagee's possession, it will be a case in which no interest will accrue.

Another point, Sir. This amendment proposes to confer on the mortgagor right of recovery of possession of the property immediately the amount is paid. I could understand if credit were claimed in respect of interest at 4 per cent. on the instalment amount deposited by the mortgagor. What the honourable member says is that immediately after the deposit of 7 per cent. of the debt, the debtor (mortgagor) must get possession of his property and that the creditor must lose possession. That is not the correct position. Nor is it just. I oppose the amendment.

**MR. P. V. MATHAI CHEMPARATHY**: Then, I beg to withdraw the amendment.

The amendment was, by leave, withdrawn.

**DEPUTY PRESIDENT**: The question before the House is that Clause 5 stand part of the Bill.

**MR. R. SAMBASIVA AIYAR**: I oppose it.

Clause 5 contains very pernicious provisions. There is a 'sting' in them. The very beginning of the Section "except in the cases mentioned here under....."shows the danger-spot in the clause. After all, in the case of a usufructuary mortgage, there is no question of interest. The mortgagee is in possession of the property. The mortgagor pays the interest or the interest and principal according to agreement. The definition of usufructuary mortgage is

> "a mortgage where the mortgagor delivers possession or expressly or by implication binds himself to deliver possession of the mortgaged property to the mortgagee, and authorises him to retain such possession until payment of the mortgage money, and to receive the rents and profits accruing from the property, or any part of such rents and profits and to appropriate the same in lieu of interest or in payment of the mortgage-money or partly in lieu of interest and partly in payment of the mortgage money."

Therefore there is no question of interest or accumulation of interest. My honourable friend Mr. Subramonia Iyer in the course of the discussion relating to exemption of sums borrowed on the pledge of

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[Mr. Sambasiva Aiyar.]

gold or gold ornaments said that there existed a vital distinction between sums raised on the pledge of gold and mortgage of immovable property. In the one case, as pointed out by him, there is no accumulation of interest. In the other, there is. Now let us look at the Exception. (a). Any transaction which purports to be a usufructuary mortgage but which is proved to have been intended to be or treated only as a hypothecation. (b) A claim by the mortgagee whether arising under a decree or otherwise for recovery of the mortgage amount. My objection relates to exception (a). In that case, the mortgagor needs only surrender the property to the mortgagee. This process of reducing the amount by 20 or 30 per cent. need not take place at all. There is no question then of accumulation of interest. In such cases, what should be done is to enable the mortgagor to surrender the property to the mortgagee so that he may have it and there will be no question of interest accumulating at all. Absolutely forgetting that principle, that section has embodied another sub-clause 2 which reads

> "Notwithstanding any practice or rule of law to the contrary it shall be competent to the parties to the transactions referred to in Exception (a) of sub-section (1) or any person claiming under them to prove that the transaction purporting to be a usufructory mortgage was intended to be, or treated as a hypothecation."

Why is it Sir? The remedy is clear. You have to forget all rules of practice, change the whole law of evidence and convert the dealings into hypothecations and apply the process of cutting the amounts according to sections 8 and 9. All these Herculean tasks need not have been attempted at all. What need have been done is, to enable the mortgagor to surrender the property to the mortgagee. When he has the mortgage amount, he can redeem the property. All this process attempted in the Bill seems to be a very complicated process, quite uncalled for, irrelevant and absolutely opposed to the principles of the law of mortgages. The whole of the Transfer of property Act, the whole law of evidence, all these should be forgotten and the mortgages should be converted into hypothecation bonds. Then, they must be submitted to all these cuts. My submission is that all this is quite unnecessary.

The question that Clause 5 do stand part of the Bill was put to vote and carried.

**Clause 6.**

**MR. R. SAMBASIVA AIYAR:** Sir, I move:

> "In Clause 6, sub-clause (1), line 2, delete the words 'if the interest charged in respect of the liability does not exceed 9 per cent. per annum' and substitute the words 'except to the extent that provision for interest in excess of 9 per cent. per annum shall be void.'"

Sir, this is as I submitted before, another clause of limited exemption. Absolute exemption is embodied in clause 4 and limited exemption in in clause 6. These public banks practically belong to the different classes of people in the State. The shareholders may be anybody.

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The profits are divided among the shareholders. There is no question of any one person getting an undue advantage or taking away the whole profit. As the section is now worded it comes to this. If a bank has charged interest, say, a quarter per cent. in excess of 9 per cent. then according to this clause, the bank should pay a penalty. That is to say if one hundred rupees has been advanced at 9¼ per cent. the bank should realise only Rs. 70. Thirty per cent. will be the cut. The effect of my amendment is that if any bank has charged more than 9 per cent. per annum, disallow the excess. After all the banks have not been doing anything illegal, anything prohibited by law. They were entitled to charge interest not exceeding 12 per cent. They might have charged that. Because it is a question of paramount public interest, we say that they also should suffer something in the general interest. That is what the member representing banks in the Debt Redemption Committee conceded. He only said that respectable banks would carry on business with 9 per cent. interest. Therefore, 9 per cent. was settled to be the maximum which the banks could charge. But, if in any transaction it is found that more than 9 per cent. was charged, then the right thing would be not to penalise them but to cut off this excess interest. But, here the position taken is different; the whole transaction will be cut. It would appear that these banks are to be penalised retrospectively for doing something which they were perfectly entitled to do. They have not committed any crime. Why then, I ask, should they be penalised? Even according to the old Regulation (I of 1110), which enjoined upon the courts the power to decree only interest at 12 per cent. what was done was, if in any document there was a provision for interest in excess of 12 per cent. a decree was given with the 12 per cent. fixed as the maximum recoverable under the suit. In the same way, I submit, if in any document there is provision for interest in excess of 9 per cent per annum, it may be disallowed.

MR. P. S. MUHAMED : ബാങ്കുകളെ സംബന്ധിച്ചിടത്തോളം മിക്കവാറും കൊല്ലങ്ങളിൽ അക്കൌണ്ട്സ് സെറ്റിൽ ചെയ്യ കാണുകയില്ലല്ലൊ?

MR. R. SAMBASIVA AIYAR : Supposing they have realised more than the nine per cent in the past, what did they do with all that money? They paid to the share holders. They paid the income tax. In short, they have paid the money to the public. If they have got any profit in the past all that has been handed over to the public. If there is a document now, it may be a renewal of a debt prior to 1112. If the document be of a later date, still it will apply according to clause 3. If that document bears an interest exeeding nine per cent disallow that excess. But do not penalise, do not say that simply because a bank had a document in its favour for an additional rate of interest than 9 per cent. the bank should be penalised. The only thing that need be done for public interest is that the excess should be disallowed. These banks did not get the money from nowhere. They got it from the public and to the public they gave it back. The profit of the transaction,



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[Mr. R. Sambasiva Aiyar]

they distributed to the public and to the shareholders. They were acting as a via media. Their function they have discharged. They were doing, in charging the interest , what they are expected to do. To turn round and say that because you did all these transactions carrying more than 9 percent interest, the whole amount shall be cut off is more or less acting in a spirit of vengeance. There should be no vengeance against public Banks.

MR. J. E. A. PEREIRA: Sir, I second this amendment. I feel that this is a genuine case where relief ought to be given. The bankers ought not to be confused with private money lenders. When the depositors demanded 5 and 6 per cent interest, the bankers also enhanced the interest and lend out at 9 per cent and something excess. The penalty now meted out to the bankers is out of proportion to all that they have done. I appeal to the National Party that by giving this relief the debtor is not denied any of the privileges that is being given by this Act. I do not see any reason why the banks should be penalised. The banks could not have charged anything less than 9 per cent under the conditions they were working. By giving this relief there will be no act of transgression of the relief that is extended to the debtors. They must show a gesture in response to our appeal.

MR. M. R. NARAYANA PILLAI I oppose the motion. I think the House is tired enough with speeches and so I shall merely say that I oppose this amendment.

MR. T.C. KESAVA PILLAI: സർ, ഞാൻ ഈ ഭേദഗതിയെ എതിർക്കുന്നു. ബാങ്കുകാർ അമിതമായ പലിശ വാങ്ങുമെന്നുള്ളതുകൊണ്ടു ഈ ബില്ലിൽ ചേർത്തിരിക്കുന്ന വകുപ്പ് അനാവശ്യമാണെന്നാണ് എന്റെ അഭിപ്രായം.

MR. PUTHUPALLI S. KRISHNA PILLAI: Sir, I have explained the circumstances under which the provision happened to be made in the original Bill introduced by me. The Debt Relief Committee had made certain recommendations with regard to the Joint Stock Banks. That recommendation was:—

> "When in respect of any such liability interest is charged at any rate exceeding nine per cent per annum, the provision of Section 5 or Section 6 as the case may be, shall apply as if for the words "four and a half per cent" and "six per cent" wherever they occur in the said sections the words "nine per cent" were substituted."

It recommended that in reipect of all bank transactions where the interest charged exceed 9 percent per aunum, the debt shall be scaled down in accordance with the provision of Section 5 by calculating interest at 9 per cent per annum, simple intrest. The Bill makes provision with regard to instalment payment, reduction of 20 per cent and all that. In that case, practically all the bank debts would come within the purview of the Act. Government are averse to the principle underlying in the reopening of transactions, and they decided that even if

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any other transaction is reopened, bank transactions should not be re-opened, because, they invariably range over a large period. Accounts are settled and fresh transactions entered into and balance remaining is carried over to the new account. If such accounts were to be re-opened and interest calculated at 9 per cent per annum, the bulk of the debts of the banks will be affected. It was thought that it will adversely affect a large number of banks. The Committee however recommended that all the provisions relating to instalments payments should apply to bank debts. Government after very careful and anxious consideration came to the conclusion that it will not be in the interests of Joint Stock Banks that a provision for reopening of settled accounts should be made applicable to them whatever be the rate of interest charged by them. So they decided to adopt the principle of not re-opening the accounts. Mr. Sambasiva Aiyar's amendment says that if more than 9 per cent. interest is charged, the debt shall be calculated at 9 per cent. per annum. What does it mean? You must bear in mind the principle enunciated. What is the debt? It is that which is due on the date of the commencement of the Act. What is the meaning in saying that hereafter, if more than 9 per cent is charged, to debt shall be calculated and paid only at the rate 9 percent per annum. If Mr. Sambasiva Aiyar had said that if in respect of bank debts if more than 9 per cent interest has been charged, such account shall be reopened and resettled on the basis of 9 per cent interest. I can understand there is some meaning in it. But is it in the interest of the bank that such a rule should be adopted? I can confidently say that it is not in the interest of the bank to say that such debts should be asked to be reopened and resettled on the basis of 9 per cent interest Those banks for which we are now fighting for charge more than 9 per cent compound interest. It is not merely compound interest yearly, but quarterly compound interest. That is the information of Government. Let alone that. My submission is that if the amendment is accepted, it would be dangerous to banks. If it is for the purpose of putting banks into trouble, by all means allow it. But on the other hand if it is intended to mean that future interest shall be calculated only at 9 per cent. then I think I ought to explain its significance. It merly means that the entire amount should be paid, but that in future interest on such amount will be calculated only at 9 per cent.

**MR. R. SAMBASIVA AIYAR:** I wish to know where it is stated that he whole thing should be reopened and all that. The argument seems to be all on suppositions.

**MR. PUTHUPALLI S. KRISHNA PILLAI:** Unfortunately all the amendments of Mr. Sambasiva Aiyar discussed hitherto had some defect or other. It is couched in such dubious language that it may mean the one or the other.

**MR. R. SAMBASIVA AIYAR:** May I know where it is stated that it is about future interest?



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MR. PUTHUPALLI S. KRISHNA PILLAI: That is what I mean. Which interest is it that the member has in mind? Is it interest accumulated before the passing of the Act?

MR. R. SAMBASIVA AIYAR: May I know whether interest means interest remaining due on the transactions?

MR. J. E. A. PEREIRA: Even granting that it is reopened.....

DEPUTY PRESIDENT: The member has no right to speak now.

MR. PUTHUPALLI S. KRISHNA PILLAI: When we make a provision in a legislative enactment we must clearly indicate what is intended. But this amendment is capable of all interpretations. The amendment is:

> "In Clause 6, sub-clause (1) line 2 delete the words "if the interest charged in respect of the liability does not exceed nine per cent per annum" and substitute the words "except to the extent that provision for interest in excess of nine per cent per annum shall be void."

What is the use of making such a provision unless it be to reopen that matter. What is the use of saying that provision for payment in excess of 9 per cent shall be void. If in respect of a charge there was an agreement to pay at the rate of 12 per cent. Mr. Sambasiva Aiyar says that everything in excess of 9 per cent shall be void. If so it is made incapable of realisation. If that is so, is it not necessary to find out what that realised portion is? It is possible to do it without reopening the accounts.

MR. R. SAMBASIVA AIYAR: Since we did not consider that question, may I know whether it does not mean the date on the document? Therefore I ask the Legal Remembrancer why he should bring in all the confusion when we are not concerned with it.

MR. PUTHUPALLI S. KRISHNA PILLAI: Let us be plain. I want to know what the member means. If he means interest only with regard to the future, then he must say so. From the way in which he interrupts me, I am afraid, he himself does not know the real implication contained in the amendment.

I am opposed to the reopening of accounts. If it is allowed in the case of . I do not find any justification for refusing that in the case of other debts. Therefore, I stoutly oppose the amendment. Once the principle of re-opening is allowed, I do not know where we will be able to stop. I am against re-opening of settled accounts.

The amendment was put to vote and lost.

MR. R. SAMBASIVA AIYAR: Sir, I demand a poll.

A poll was taken and the House divided as follows.—

AYES—2

1. Mr. S. Krishna Aiyar
2. Mr. R. Sambasiva Aiyar

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NOES.—26

| | | | |
|---|---|---|---|
| 1 | Mr. D. Francis | 15 | Mr. K. Kunju Panickar |
| 2 | ,, S. Govinda Pillai | 16 | Sahib Bahadur M. K. Mackar Pillai |
| 3 | ,, Padiyara Joseph Kunju | 17 | Sahib Bahadur P. S. Muhamed |
| 4 | ,, Joseph Vithayathil | 18 | Mr. N. Narayana Kurup |
| 5 | ,, K. C. Karunakaran | 19 | ,, K. Narayanaperumal Nadar |
| 6 | ,, Menatheri N. Kesava Panikar | 20 | ,, S. Narayana Pillai |
| 7 | ,, T. C. Kesava Pillai | 21 | ,, P. Narayana Pillai |
| 8 | ,, T. T. Kesavan Sastri | 22 | ,, K. R. Narayanan |
| 9 | ,, Kaviyoor K. K. Kochukunju | 23 | Mr. N. Ramakrishna Pillai |
| 10 | ,, Thamarappallil Kochuthommen | 24 | ,, N. Velu Achari |
| 11 | ,, N. R. Krishnan | 25 | ,, G. Velu Pillai |
| 12 | ,, A. K. Kumaran Vaidyan | 26 | ,, K. V. Joseph |
| 13 | ,, Thariathu Kunjithommen | | |
| 14 | ,, P. Kunjukrishnan | | |

NEUTRALS—19.

| | | | |
|---|---|---|---|
| 1 | Mr. Kottalil P. Abraham | 12 | Mr. Kainikkara M. Padmanabha Pillai |
| 2 | ,, E. E. Pandarathil | 13 | ,, Codiveetil C. Ramankunju |
| 3 | ,, K. G. Govindan | 14 | ,, E. Subramonia Aiyar |
| 4 | ,, C. Jebamoney Nadar | 15 | ,, J. W. Tolson |
| 5 | ,, M. K. Nilakanta Aiyar | 16 | ,, K. R. Narayana Aiyar |
| 6 | ,, S. Sundararajan | 17 | ,, C. Kumara Das |
| 7 | ,, M. Ramachandra Rao | 18 | Dr. H. Parameswaran |
| 8 | ,, K. Sankaran | 19 | Mr. V. R. Sankaranarayana Pillai |
| 9 | ,, Puthupally S. Krishna Pillai | | |
| 10 | ,, A. Gopala Menon | | |
| 11 | Sahib Bahadur H. O. L. Marikar | | |

**DEPUTY PRESIDENT**: The House will now adjourn and meet again on Friday at 11 o' Clock.

The House adjourned at 5·5 P. M.

A. GUNAMONY,
*Secretary to the Sri Mulam Assembly.*

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